Furthermore, the petitioner declares, as if to buttress his argument on alleged lack of notice, that he was only aware that he would face charges of judicial misconduct. Such is clearly not supported from the record and was rejected by the Court of Appeals (App. B Petition, pp. 16-17) which stated:

> "The charges were not of mere inattention to judicial responsibility. Aside from violation of the court rules and denial of the rights of defendants who had appeared before appellant, there were findings of gross abuse of the judicial process. The Information alleged and the Massachusetts court found that appellant had deliberately violated the terms of a license and that in testifying before the Superior Court on this matter he had purposefully misled the court. The Supreme Judicial Court found there had been purposeful alteration of court records in an effort to conceal evidence and that appellant had filed under penalty of perjury knowingly false answers to interrogatories. In finding this last fact the Massachusetts court rejected the testimony appellant gave as 'entirely incredible. We do not believe that there was any failure of memory. We find instead a deliberate, calculated, persistently repeated lie.' *In the Matter of Jerome Troy*, at 1141. It is unnecessary to go into the remainder of the court's findings. An attorney's obligation in such instances is clear. Disbarment based on such findings is well founded."

It is further submitted, and the courts below so ruled, that the petitioner was also on notice that he could be disbarred by virtue of an earlier opinion of the Supreme Judicial Court, *Matter of DeSaulnier*, 1972 Mass. Adv. Sh. 65, 279 N.E.2d 296, where the state court determined it

had the authority under the Massachusetts Constitution to discipline a judge in his capacity as a judge and as a lawyer.

It is apparent, therefore, that the petitioner is merely urging this court to pass upon a purely factual determination which has unanimously been decided contrary to the petitioner by both lower courts. Moreover, it is submitted that adequate notice, sufficient to satisfy due process guarantees was afforded the petitioner in that he was advised of the precise allegations against him and was afforded a fair opportunity to prepare and present a defense. *In Re Ruffalo,* 390 U.S. 544, 550 (1968); see also *In Re Oliver,* 333 U.S. 259 (1948).

II. The Evidence Clearly Established the Want of Fair Private and Professional Character.

The petitioner further contends there was insufficient evidence to warrant his disbarment due to the alleged lack of notice of that possible consequence. In that sense the issue is dependent entirely upon the merits of his claim regarding notice of possible disbarment which we suggest is totally untenable and contrary to the facts already determined by the lower federal courts.

The respondent submits the evidence of misconduct was clearly sufficient to warrant an order of disbarment. The District Court ruled on the sufficiency of the evidence and found that the review of the state court record establishes the findings of the state court are supported by substantial evidence. The Court of Appeals agreed and found that there was ample evidence to support disbarment. Furthermore, the Supreme Judicial Court in *Matter of Troy,* 1973 Mass. Adv. Sh. 1107, 306 N.E. 2d 203 (1973) outlined the grave findings and commented on the persuasiveness of the evidence at pp. 1164-1165:

"As shown in this opinion, most of the allegations of the Information have been proved. We add that as to those matters proved there were no difficult questions of fact for this court. As to every one of these matters there was clear, convincing and highly persuasive evidence.

"In reaching our ultimate decision in this case, we rely in major part upon the following six extremely serious charges which were proved before us against Judge Troy: (1) He lied under oath in answering interrogatories concerning his prior knowledge of his deceased wife's hypertensive heart condition. He repeated those lies before this court in the hearing of this case. He also lied to the Superior Court judge concerning the quality of fill used at Tenean Creek, and he repeated some of that false testimony at the hearing before this court. (2) He brought pressure to bear in an attempt to gain a political contribution from a lawyer who practiced in the Dorchester Court (Mr. Mooney), and he lied to this court concerning that matter. (3) He wilfully directed the filling of the Tenean Creek tidewater area in an illegal manner. (4) He neglected his judicial duties consistently and palpably, particularly during the period of about two years when he was engaged in practically a full-time pursuit of the Tenean Creek project. (5) Consistently, over a period of nearly two years, he used the services of Charles Critch as a bulldozer operator at Tenean Creek during regular court hours in which Critch's only remuneration was his pay as a court officer. (6) He procured substantial legal services from Mr. Manzi and Mr. Carvin. He paid these lawyers nothing for their services. Further, he gave them numerous assignments as court-appointed counsel for indigent

> defendants for which the two lawyers were compensated at public expense. During the time when Mr. Manzi and Mr. Carvin were serving as his personal attorneys, he presided over cases in which they appeared as counsel for private litigants, and he made no disclosure of the relationship between judge and counsel. On one occasion, without disclosing his relationship to counsel, he presided over a tort case and made a substantial finding in favor of a plaintiff represented by Mr. Carvin.
>
> "Any one of these six matters, standing alone, warrants severe disciplinary action against Judge Troy. Taken cumulatively, they clearly require the result we have reached."

It is clear that a review of the record and the evidence would reveal no infirmity or proof so as to persuade this Court that it should not accept as final the findings of the state court.

III. The State Court Determination That It Possesses the Authority To Impose Judicial and Bar Discipline Is Final and Binding Upon the Federal Courts.

The petitioner contends that he was disbarred in an unconstitutional hearing in that the state court had no power under the Massachusetts Constitution to remove him as a judge and that this constitutes "grave reason" as stated in *Selling* v. *Radford*, supra, why the state court disbarment should not be recognized in the federal courts.

This involves a question of purely state law which has been definitively decided by the highest court of Massachusetts. In *Matter of DeSaulnier*, 1971 Mass. Adv. Sh. 1345, 274 N.E.2d 454, the court first declared that, in the exercise of its inherent, statutory and constitutional au-

thority, it could impose discipline upon members of the bar either as lawyers or as judicial officers. In several subsequent opinions the decision was reaffirmed by the Massachusetts Supreme Judicial Court, *Matter of DeSaulnier*, 1972 Mass. Adv. Sh. 65, 279 N.F.2d 296; *Matter of Jerome P. Troy*, 1973 Mass. Adv. Sh. 1107, 306 N.E.2d 203.

It is submitted that petitioner presents no federal issue which this court should examine. The interpretation of the Massachusetts Constitution by the highest court of that state is binding upon this court. *In Re Murchison*, 349 U.S. 133 (1955); *State* v. *Sims*, 341 U.S. 22 (1950); *Lombardi* v. *Tauro*, 470 F.2d 798, *cert. den.* 412 U.S. 919 (1972).

IV. There Is No Conflict of Decisions and There Are No Important Questions of Federal Law Involved.

The decision of the Court of Appeals is not in conflict with any decision of this Court nor is there a conflict of decisions to be resolved. Indeed, the decisional guides have already been marked out by this Court in *Selling* v. *Radford*, supra, and remain for the proper application upon the facts by the lower federal courts.

The Court of Appeals did not decide an issue involving the application or construction of the United States Constitution which is contrary to the governing decisions of this Court.

Conclusion

For the foregoing reasons it is respectfully submitted that this petition for a writ of certiorari be denied.

Respectfully submitted,

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